

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BLUEFIELD DIVISION

FILED

FEB 25 2015

TERESA L. DEPPNER, CLERK
U.S. District Court
Southern District of West Virginia

MARVIN X. DAMON,
Plaintiff,

-v-

UNITED STATES OF AMERICA,
Respondent.

Civil Action No. 1:15-2216
(To be assigned by court)

COMPLAINT
UNDER THE FEDERAL TORT CLAIM ACT, PURSUANT TO
TITLE 28 U.S.C §1346(b)(1).

I. Parties

A. Name of Plaintiff: Marvin X. Damon

Inmate No.: 33793-083

Address: FCI-Hazelton

P.O. BOX 5000

Bruceton Mills, Wv 26525

B. Name of Defendant: United States of America

Place of Employment: Bureau of Prisons

320 First Street, NW Room 977 HOLC

Washington, DC 20534

*"Pro se pleadings must be liberal construed as those formally drafted by lawyers". Haines v. Kerner, 404 U.S. 519-20(1972); see also, Erickson v. Pardus, 551 U.S. 1081(2007)("As a self-represented litigant, plaintiff is entitle to liberal construction of his complaint")

(NOTE: See "Attachments" A-thru-G hereto)

II. Place of Present Confinement.

Name of Prison/Institution: FCI-Hazelton, Bruceton Mills Wv.

A. Is this where the events concerning your complaint took place?

Yes _____ NO X _____

If you answered "no," where did the event occur? FCI-McDowell, Welch West Va;
/inside the Food Service Department (i.e., Inmates Dining Hall.)

EXHAUSTION OF CLAIM(S)

B. Have you first presented your Administrative claim to the proper federal agency before filing this lawsuit as require by 28 U.S.C. §2401(b) and 28 U.S.C. §2675(a).

Yes X _____ NO _____

C. Did you presents the facts relating to your Administrative Claim/Complaint to the proper federal agency? (See, the undersigned's 'Notice of Claim Under Federal Tort Claim Act', dated/mailed July 22, 2014--via Certified Mail Return Receipt, attached hereto, Attachment "A".)

Yes X _____ NO _____

If you answered "no," explain why not: _____

If you answered "yes" what was the result of the federal agency? (Attach proof and documentation of filing): I have attached a copy of the Certified Mail Receipt PostMark 7/23/2014 ; and Return Receipt for Merchandise: # 7011 1570 0003 4354 1990, as to the return receipt for merchandise that was returned to the undersigned, this returned receipt was (undated and unsigned by the proper federal agency as being received and/or delivered.) Attachment "B". **However,** the undersigned then inquired here at-FCI-Hazelton/Mailroom-open-house (R&D) as to the date the Merhandise ('Notice'), was received and/or delivered by the federal agency in Washington D.C. (See the undersigned's 'Inmate Request To Staff' (i.e., e-mail) and in response, the mailroom

or (R&D) informed the undersigned that the letter ('Notice') was received in Washington D.C. on July 28, 2014 @7:12am. (See Attachment "C"). In addition, (R&D) also printing out for the undersigned a 'USP.COM TRACKING INFORMATION', showing the same exact date and time of July 28, 2014, @7:12am the undersigned's mail was received and/or delivered by the federal agency in Washington, D.C. 20534. (See Attachment "D").

Moreover, I have attached a copy of the federal agency acknowledgment receipt letter dated **August 26, 2014**, from Matthew W. Mellady, Regional Counselor, acknowledging the receipt of the undersigned's Administrative claim for the sum of \$1,500,000.00. (In Re: Administrative Claim Number: TRT-MXR-2014-05873.) See, Attachment "E".

On **September 11, 2014**, through via Certified Mail # 7007 2680 0001 7446 7346 the undersigned received and signed thereof, the federal agency '**Final denial**' notice of his claim in letter dated **September 5, 2014**, for consideration for administrative settlement under the Federal Tort Claim Act 28 U.S.C. §2671, et., seq., and the authority granted under 28 C.F.R. §0.172. The federal Bureau of Prisons federal agency 'based' their denial of the undersigned's claim for personal injury/ 'Negligent', on the ground's that their investigation reveals that there is 'no policy requirement' that the food served in the dining hall be labeled; (See Attachment's "F" & "G"). (I, the undersigned, hereby and Incorporated by Reference the attachments hereto.)

III. Previous Lawsuits

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise related to your imprisonment?

Yes X

NO

B. If your answer to A is "Yes", describe the lawsuit below:

(Cont'd)

'I filed a complaint alleging a violations of my Constitutional and civil rights pursuant to Bivens v. Six Unknown Federal Agents of Federal Bureau of Narcotics, 403 U.S. 619(1971), whereas, the defendants below,while the undersigned was confined at FCI-McDowell, violated the undersigned First Amendment rights and the undersigned's rights under the Religious Land Use and Institutionalized Persons Act ["RLUIPA"] by serving 'kidney beans' in substitution for 'navy beans' during the undersigned's Religious ceremonial meal,whereas, the consumption of kidney beans is "inconsistent with the undersigned's Religious dietary laws," and the defendants knew, or should have known,through its own policies that the substitution of the 'navy beans' with 'kidney beans' was inconsistent with the undersigned's religious dietary laws".'

1. Parties to the previous lawsuit:

Plaintiff: Marvin X. Damon

Defendant(s): Bart Masters, Warden

John Bowling, Food Service Administrator

J. Tabor, Assistant Food Service Administrator

John Boyd, Food Service Employee

2. Courts(if federal court,name the district; if state court, name the county); In the United States District Court for the Southern District of West Virginia, Bluefield Division.

3. Docket Number: 1:14-cv-26833

4. Name of judge to whom case was assigned: Judge, David A. Faber*

5. Disposition (For example: Was the case dismissed? Was it appealed? Is it still pending?) The case is still pending.

6. Approximate date of filing lawsuit: October 14, 2014

7. Approximate date of disposition: Lawsuit is still pending and is still in it's preliminary stages.

* Case Referred to: Magistrate Judge R. Clarke VanDervort

IV. Statement of claims

State here, as briefly as possible, the facts of your case. Describe what each federal employee for the United States did to injury you or cause damage or in which you hold the United States liable, under the Federal Tort Claim Act. Include also names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets of paper if necessary.)

*See Accompanied "Memorandum of Law, In support of Complaint Under The Federal Tort Claim Act, Pursuant To Title 28 U.S.C §1346(b)(1); and also *see Accompanied "Appendix To Memorandum of Law In Support of Complaint Under The Federal Tort Act, Pursuant To Title 28 U.S.C §1346(b)(1): and (Incorporated by reference.)"

V. Relief

States briefly and exactly what you want the Court to do for you. Make no legal arguments. Cite no cases or statutes.

*Requesting this court to enter judgment: a) Granting Plaintiff's a declaration that the acts and omission described herein caused Plaintiff to violate his own religious right's thereby causing such injury, under the Federal Tort Claim Act of the laws of the State of West Virginia; b) Granting Plaintiff compensatory damages in the amount of \$1,500,000.00 against the United States; c) Plaintiff also seek's a jury trial on any issues triable by jury; d) Plaintiff also seek recovery of cost in this suit and any additional relief this court deems just, proper, and equitable. Also see Plaintiff's "Memorandum of Law In Support of Complaint Under The Federal Tort Claim Act, Pursuant To Title 28 U.S.C. §1346(b)(1)", See Page and the undersigned hereby and Incorporate by reference.

Respectfully submitted,
/s/ Marvin X. Damon
Signature of Plaintiff
Marvin X. Damon
Pro Se.

Verification of Complaint.

I, the undersigned, Verify and Certify under the penalties of perjury that the foregoing averments and documents affixed to Plaintiff's 'COMPLAINT UNDER THE FEDERAL TORT CLAIM ACT, PURSUANT TO TITLE 28 U.S.C §1346(b)(1)', is true and correct, pursuant to Title 28 U.S.C §1746; and 18 U.S.C 1621.*/ Executed: On this 23 day of February, 2015.

/s/ Marvin X. Damon
Signature of Plaintiff
Affiant Marvin X. Damon

*/ See, Williams v. Griffin, 952 F.2d 820, 823(4th Cir. 1991) ("Verified complaint carries the same weight as an affidavit, if based on matters within affiant's knowledge".)

Re: 'Federal Tort Claim' Under Title 28 U.S.C. §1346(b)(1).


ATTACHMENTS.

- Attachment "A". "Notice of Claim Under Federal Tort Claim Act", dated/mailed July 22, 2014; (With Exhibit's 1-9)
- Attachment "B". "Certified Mail Receipt-PostMark July 23, 2014; and Return Receipt for Merchandise".
- Attachment "C". "Inmate Request To Staff" (i.e., e-mail).
- Attachment "D". "USP.COM TRACKING INFORMATION".
- Attachment "E". "Acknowledgment Receipt Letter"--of claim dated, August 26, 2014 (In Re: Administrative Claim # TRT-MXR-2014-05873.)
- Attachment's "F" & "G". *"The federal agency 'final denial' notice of claim, dated September 5, 2014; and received September 11, 2014"

VERIFICATION OF ATTACHMENTS.

I, the undersigned Verify and Certify and declare under the penalties of perjury, that the foregoing mentioned-attachments, is true and correct, Pursuant to Title 28 U.S.C. §1746; and 18 U.S.C §1621.

Executed: On this 23, day of February 2015.

/s/ 
Marvin X. Damon
Affiant.

NOTICE OF CLAIM UNDER FEDERAL TORT CLAIM ACT
TITLE 28 U.S.C. §2671, et. seq.

CERTIFIED MAIL-RETURN RECEIPT NO. 7011 1570 0003 4354 1990

TO: FEDERAL BUREAU OF PRISONS
Ms. Joyce Zoldak, Associate General Counsel
320 First Street, NW Room 977 HOLC
Washington, DC 20534

FROM: MARVIN DAMON, aka (Claimant)
Marvin Damon-Register Number: 33793-083
Federal Correctional Institution-Hazelton
P.O. BOX 5000
Bruceton Mills, Wv 26525

Type of employment: Civilian
Date of Birth: May 14, 1965
Marital Status: Divorce
Date of Tort: January 14, 2014
Date Tort Discovered: January 14, 2014

This claim is hereby brought under the Federal Tort Claim Act,
(FTCA), Title 28 U.S.C §2671, et. seq.:

A. Basis of claim.

Under the legal presumption that the Bureau of Prisons("BOP"), Federal employee's, will follow their own policies and carry out their duties and responsibilities on behalf of claimant, while claimant is being imprisoned at FCI-McDowell, a Federal Correctional Institution located in Welch, West Virginia.

B. STATEMENT OF FACTS.

Beginning in October of 2013, (and at-least on three Thursday's), during the month of October, the days, the Shelf-salad was being served, during dinner meals, in substitution of Philly-cheese steak and ending sometimes thereafter; Claimant based upon his special relationship with the FBOP and under FBOP'S own written policies, put's FBOP on notice, that federal employee's Mr. John Bowling, Food Service Administrator(FSA), and his subordinates, who Mr. Bowling,

[Attachment "A"]

Initial M.D.

oversees, 1/ failed to place labels by-name on the four-inch pans, identifying by-name and it's ingredient's in the "Bacon & Tomato" salad-dressing, after, being removed from their original container's and pouring into the four-inch-pans and placing the pans on the self-service salad hot/cold bar, in the inmates dinning room; and they(FBOP),even failed to put a Asterisk[Star], on the National-Menu(beside the salad-dressing, to indicate that specific salad-dressing contains 'Pork' and it's by products(ingredients). 2/

Moreover, On December 4th, 2013, at approximately, after 5:00pm, during the dinner meal, while claimant was sitting down at the kitchen table, claimant overheard conversation/discussion by other unknown inmates, discussing the subject-matter that the redd-looking salad dressing that was served in **October 2013**, on the self-service hot/cold bar, in food service, had pork in it. However, Claimant being a practicing Muslim and a member of The Nation of Islam, immediately, sort to investigate what he had overheard.

On December 5th,2013, Claimant submitted, a "Inmate Request To Staff"; using the inmate trulincs system (i.e., e-mail), in that e-mail, claimant inquired and posed the question to Mr. John Bowling(FSA), concerning that particular salad-dressing, that purported to have been served during the month of October 2013; and claimant also, informed Mr. Bowling as to his reason for such an inquiry, informing Mr. Bowling, as muslim he had consumed that particular salad-dressing; and he claimant, was forbidden to eat pork and it's by-products. Consequently, Mr. Bowling, had failed to respond to claimant request to staff, within the Twenty-one(21)-days that are allotted to staff's, for a response. (See True Copy of e-mail/"Inmate Request To Staff", dated, 12/5/2013, attached, hereto,EXHIBIT "1").

1/ See,FOOD SERVICE MANUAL-PROGRAM STATEMENT: OPI: HSD/FDS Number: P4700.06,Date: September 13, 2011, which states: "At the institution level,the food service Department is under the direct supervision of the food service administrator(FSA)", CHAPTER, One Paragraph Four, Page 10); and a. FOOD SERVICE ADMINISTRATOR(FSA). Institution food service operation will be supervised by a food service administrator experienced in food service function in the institution;ensures compliance with bureau policies relating to food service; and performs duties in the standardized position description for food service administrator.(P4700.06,Page 10); "The FSA will...ensures staff are aware of the policies and procedures required to perform their assigned duties". (P4700.06,n.12,Page 14);

2/ "Working containers holding food or food ingredients that are removed from their original package will be identified with the common name of the food". (P4700.06,Page38, n.4).

Moreover, On January 7, 2014, through, the administrative remedy process, claimant, in his effort to get Mr. Bowling(FSA) to respond, diligently sort to have his concerns address, by initiating a request for administrative remedy(BP-8), through the administrative remedy program MCD-1330.16. Again, the filing of the (BP-8), was necessary in order to get Mr. Bowling to respond and address claimant concern's; and thus, to protect any legal recourse in which claimant may be entitle too. However, On January 14, 2014,-in response, to claimant (BP-8), Mr. Bowling through e-mail, sent, counselor K. Stock's an e-mail, in-response, to claimant (BP-8), stating: "This inmate failed to meet the time requirement for filing a complaint with the administrative remedy process. This alleged incident took place in **October**". (See, True Copy of e-mail/BP-8 response from Mr. Bowling to counselor, K. Stock's. EXHIBIT "2").

Furthermore, throughout, Claimant administrative remedy process, claimant informed Mr. Bowling and the (FBOP), that he nor the 'inmate General Population (IGP) was never informed nor given notice of the **October 2013 incident**; and it was only through Mr. Bowling e-mail to claimant (BP-8), claimant learned for the first time of the October incident.

On January 28, 2014, claimant then submitted, his (BP-9), appealing Mr.Bowling response, claimant, claiming that the (FBOP) employee's failed to informed him and/or give him 'notice' of the October 2013, incident, when it occurred, as required by 28 CFR 542.12 n.2. and the United States Supreme Court's decision, in Wolff v. McDonnell, 418, U.S. 539(1974). However, On February 3, 2014, without the (FBOP) administrative remedy coordinator for FCI-McDowell, failed to forward claimant (BP-9) appeal to Warden, Bart Masters, for a response, the coordinator erroneously, rejected claimant (BP-9), adopting Mr.Bowling, (BP-8), response, stating:

REJECT REASON 1: Your request is untimely. Institution and ccc request(BP-9) must be received W/20 Days of the events complained about.

REJECT REASON 2: See Remarks.
: You have 20 Days from date of incident to file your request and the incident you are referencing was in **October**.

(See True Copy of 'rejection notice', dated, 2/3/2014, Remedy I.D#766711-F1, attached hereto) EXHIBIT "3".

On February 12, 2014, claimant then initiated his (BP-10), appeal to the Regional Director, for the Mid-Atlantic, appealing the 'rejection notice' and the coordinator erroneously rejection of claimant administrative remedy. In that appeal, claimant claim that FCI-McDowell administrative remedy coordinator, improperly rejected his (BP-9), and the failure of the coordinator to forward claimant (BP-9), to the warden for a response. Nevertheless, the regional director, administrative remedy coordinator also, erroneously, 'rejected, claimant (BP-10) appeal, stating it's reason:

REJECT REASON 1: You did not provide a copy of...
The (BP-9) response from the Warden.

(See, True Copy of, 'rejection notice', dated, 2/19/14; Remedy I.D., #766711-R1; attached hereto), EXHIBIT "4".

Notwithstanding, that the evidence and event's in claimant administrative remedy process, shows, that the administrative remedy coordinator for FCI-McDowell, received claimant (BP-9), then deliberately and erroneously rejected claimant (BP-9), appeal, thereby, intentionally, preventing the Warden Bart Masters, from reviewing claimant (BP-9), and providing a response.

Moreover, in claimant effort to show in his (BP-11) appeal, that (FBOP), each agencies, erroneously, rejected, his administrative remedies. On February 28, 2014, claimant submitted his (BP-11), appeal, through Central office and explained to Central office in his appeal, that Mr. Bowling(FSA) and/or his (FBOP) employee's never informed him nor the Inmate General Population of the **October incident**; nor gave claimant nor the(IGP) notice of the incident.

However, instead, of Central office, addressing claimant appeal; On April 9, 2014, the administrative remedy coordinator for Central office, also, erroneously, rejected claimant (BP-11), appeal, adopting the same rejection notices as all previous (FBOP) agencies has done, by stating:

REJECT REASON 1: You submitted your request or appeal to the wrong level. You should have filed at the institution...

REJECT REASON 2: You must first file a BP-9 request through the institution for the Wardens review and response before filing an appeal at this level.

(See True Copy of 'rejection notice', dated, 4/9/2014, remedy I.D., #766711-A1, attached hereto) EXHIBIT "5".

Finally, while claimant(BP-11), appeal was pending, before, Central office, claimant received the proof and discovered then through, the Freedom of Information Privacy Act, Request No.2014, 05268), a letter-response, as-respect to claimant request, dated March 24th, 2014, enclosing to claimant, copies of the Federal Bureau of Prisons' records; Specifically, copies of the label's from the Saladdressing that was being served at-FCI-McDowell, food service, during the month of October of 2013, (See, True Copy of letter-response, to the freedom of information act request, dated, 3/24/2014, attached hereto), EXHIBIT "6"; and also, see, (True Copy of label-pertaining to the "Bacon & Tomato", Saladdressing identifying by-name and the 'Pork' and it's by-product's (ingredients)[i.e., "Bacon Fat & Bacon..."]EXHIBIT "7".

In addition, See, (True Copy of the Freedom of Information Privacy Act-letter-response, dated, May 9, 2014-in reference to FOIA/PA request No. 2014-06152, releasing to claimant the Federal Bureau of Prisons records. Specifically, a printout, showing the year, month, date, and time, claimant identification card was scanned at FCI-McDowell, at mainline, during the month of October 2013. EXHIBIT "8"; and see, (True Copies (2-pages), of --"Inmate Detail Report" for 10/01/2013 thru 10/31/2013). EXHIBIT "9". Thus, these report's placed claimant in FCI-McDowell dinning room, during the month of October 2013, in which the 'Bacon & Tomato', Salad dressing was being served.

*The April 9, 2014, rejection notice, by the (FBOP'S), Central office, constitute a final agency action.

Under 28 CFR 542.12 n.2; 18 U.S.C. 4042; Program Statement P4700.06, Paragraph Four, Page 10, CHAPTER 1, n.2a; CHAPTER 7, n.1-2 (Page 32); CHAPTER 8, n.4 (Page 37); administrative remedy program MCD 1330.16; Wolff v. McDonnell, Supra; and based upon a special relation with the United States FBOP'S employee's has breached it's legal duties and responsibilities and care that FBOP'S owe's to claimant, to ensure that his right's are protected by (FBOP'S) policies and the law.

C. Personal Injury.

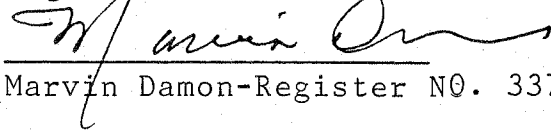
The Nature and extent of claimant injury, which forms the basis of his claim is being that (FBOP'S) employee's acted **Negligently**, under the color of law and through FBOP'S **Negligence** and **Negligent** omissions; Specifically, claimants' personal injury' is the result of the FBOP'S food service Department employee's, who acted negligence, by failing to follow their own policies, when they failed to place labels, by-name on the four-inch, pans, in food service, during mainline, identifying by-name; and the 'Pork' and it's by-product's ingredients in the, 'Bacon & Tomato', Saladdressing, after being removed from their original containers and pouring into the four-inch pans and then placing them on the Salad hot/cold bar; including the National menu, thus, this consequence of FBOP negligence, caused claimant to consumed the unidentified saladdressing, thereby, their actions, caused claimant to violate his Religious Beliefs and Practices, in which, claimant religious forbid him from eating pork and it's by product. Therefore, under, the (FTCA) renders the United States liable for the negligent acts of,

it's employee's committed "While acting within the scope of [their] employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. 28 U.S.C §1346(b)(1). Claimants' injury occurred, began and remain's in the State of West Virginia. For claims of negligence the laws of West Virginia create a private right of action.

D. Amount of Claim:

The claimant request the sum of \$1,000,000(One-Million) in compensation Damages and Personal injuries and additional \$500.000 in punitive Damages.

Signature of Claimant:

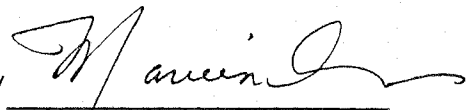

Marvin Damon-Register NO. 33793-083

Date of claim: July 22, 2014

E. VERIFICATION.

I, the undersigned, Certify, Verify and declare under the penalties of perjury, that the foregoing, "NOTICE OF CLAIM UNDER FEDERAL TORT CLAIM ACT, TITLE 28 U.S.C. §2671, et. seq", is true and correct, Pursuant to Title 28 U.S.C §1746; and 18 U.S.C §1621. */

Executed: On this 22 day of July 2014.

/s/ 
Marvin Damon
Affiant.

*/ Kohlberg v. Lehlack, 160 U.S. 432(1895)("Facts duly alleged are deemed true unless, denied or controverted by evidence or counter-Affidavit")

TRULINCS 33793083 - DAMON, MARVIN - Unit: MCD-A-A

FROM: 33793083

TO: Food Service

SUBJECT: ***Request to Staff*** DAMON, MARVIN, Reg# 33793083, MCD-A-A

DATE: 12/05/2013 12:15:04 PM

To: FOOD SERVICE ADMINISTRATOR

Inmate Work Assignment: am/compound

RE: Salad-dressing that were served, not being identified as containing pork or it's by-product (ingredients), after being removed from it's original package.

Dear Mr. Bowing/(FSA)

It's has come to my attention that the red-looking salad-dressing that were being served on the (SELF-SERVING) line, salad-bar; sometime during the month of October, as well on other previous occasions contained pork or it's by-product?

The Four-inch pans(s), that contained the salad dressing or salad bar were never identified, by name, (as having pork ingredients) after it (salad dressing) were removed from it's original package or content(s).

However, I'm Muslim and my religious preference is the NATION OF ISLAM; and I'm forbidden to eat pork or it's by-products.

Moreover, because of the Food Service failed to identify that particular salad dressing (by name) with a NOTATION that the "salad dressing contains pork ingredients", as a result, without the notice, it caused me to consume the salad dressing in question.

I'll await your prompt response!

Respectfully submitted,

/s/ 

Karl Stock - Re: Inmate: Marvin, Damon #33793-083

From: John Bowling
To: Karl Stock
Date: 1/14/2014 9:33 AM
Subject: Re: Inmate: Marvin, Damon #33793-083
CC: John Bowling

Mr Stock,
This inmate failed to meet the time requirements for filing a complaint within the administrative remedy process. This alleged incident took place in October.

**John Bowling, Food Svc Admin.
FCI McDowell
101 Federal Way
PO Box 1029
Welch, WV 24801
(304)-436-7390
Fax: (304)-436-7399**

A Great Attitude Is A Powerful Tool That Fuels Teamwork.

The info in this e-mail is privileged and sensitive but unclassified information, intended only for the use of the individual or entity named above. If the reader of this e-mail is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, YOU ARE HEREBY ON NOTICE that you are in possession of sensitive information; any disclosure, copying, distribution, or taking of any action in reliance of the contents of this e-mail information is prohibited.

>>> Karl Stock 1/9/2014 2:23 PM >>>


Could ya give me an answer. Thanks

K. Stock
Counselor
FCI McDowell
P.O. Box 1029
Welch, WV 24801
304-436-7300 EX: 7504
kstock@bop.gov

[EXHIBIT "2"]

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: FEBRUARY 3, 2014

 FROM: ADMINISTRATIVE REMEDY COORDINATOR
MCDOWELL FCI

TO : MARVIN DAMON, 33793-083
MCDOWELL FCI UNT: UNIT A1 QTR: A02-230L
P.O. BOX 1029
WELCH, WV 24801

FOR THE REASONS LISTED BELOW, THIS ADMINISTRATIVE REMEDY REQUEST
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 766711-F1 ADMINISTRATIVE REMEDY REQUEST
DATE RECEIVED : FEBRUARY 3, 2014
SUBJECT 1 : FOOD - (EXCEPT DIETS & RLGS FOOD/MEALS)
SUBJECT 2 :
INCIDENT RPT NO:

[EXHIBIT "3".]

2/3/2014

REJECT REASON 1: YOUR REQUEST IS UNTIMELY. INSTITUTION AND CCC REQUESTS (BP-09) MUST BE RECEIVED W/20 DAYS OF THE EVENT COMPLAINED ABOUT.

REJECT REASON 2: SEE REMARKS.

REMARKS : YOU HAVE 20 DAYS FROM DATE OF INCIDENT TO FILE YOUR REQUEST AND THE INCIDENT YOU ARE REFERENCING WAS IN OCTOBER.

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: FEBRUARY 19, 2014

FROM: ADMINISTRATIVE REMEDY COORDINATOR
MID-ATLANTIC REGIONAL OFFICE

TO : MARVIN DAMON, 33793-083
MCDOWELL FCI UNT: UNIT A1 QTR: A02-230L
P.O. BOX 1029
WELCH, WV 24801

FOR THE REASONS LISTED BELOW, THIS REGIONAL APPEAL
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 766711-R1 REGIONAL APPEAL
DATE RECEIVED : FEBRUARY 18, 2014
SUBJECT 1 : FOOD - (EXCEPT DIETS & RLGS FOOD/MEALS)
SUBJECT 2 :
INCIDENT RPT NO:

REJECT REASON 1: YOU DID NOT PROVIDE A COPY OF YOUR INSTITUTION
ADMINISTRATIVE REMEDY REQUEST (BP-9) FORM OR A COPY
OF THE (BP-09) RESPONSE FROM THE WARDEN.

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: APRIL 9, 2014

FROM: ADMINISTRATIVE REMEDY COORDINATOR
CENTRAL OFFICE

TO : MARVIN DAMON, 33793-083
MCDOWELL FCI UNT: UNIT A1 QTR: A02-230L
P.O. BOX 1029
WELCH, WV 24801

FOR THE REASONS LISTED BELOW, THIS CENTRAL OFFICE APPEAL
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 766711-A1 CENTRAL OFFICE APPEAL
DATE RECEIVED : MARCH 11, 2014
SUBJECT 1 : FOOD - (EXCEPT DIETS & RLGS FOOD/MEALS)
SUBJECT 2 :
INCIDENT RPT NO:

REJECT REASON 1: YOU SUBMITTED YOUR REQUEST OR APPEAL TO THE
WRONG LEVEL. YOU SHOULD HAVE FILED AT THE
INSTITUTION, REGIONAL OFFICE, OR CENTRAL
OFFICE LEVEL.

REJECT REASON 2: YOU MUST FIRST FILE A BP-9 REQUEST THROUGH THE INSTITUTION
FOR THE WARDEN'S REVIEW AND RESPONSE BEFORE FILING AN APPEAL
AT THIS LEVEL.



U.S. Department of Justice

Federal Bureau of Prisons

Beckley Consolidated Legal Center

*1600 Industrial Park Road, P.O. Box 1280
Beaver, West Virginia 25813*

March 24, 2014

Marvin Damon
Reg. No. 33793-083
FCI McDowell
P.O. Box 1009
Welch, WV 24801

Re: FOI/PA Request No. 2014-05268

Dear Mr. Damon:

This is in response to your request for copies of Federal Bureau of Prisons' records. Specifically, you requested a copy of labels from salad dressing served at FCI McDowell during the month of October 2013 and the label from the salad dressing that was discontinued, name and title of who discontinued the salad dressing and reason.

We have located 3 pages responsive to your request. These records are being released in their entirety. We have not edited any portion of these documents. There are no documents responsive to the reasoning behind the discontinued salad dressing as everything was verbal.

Sincerely,

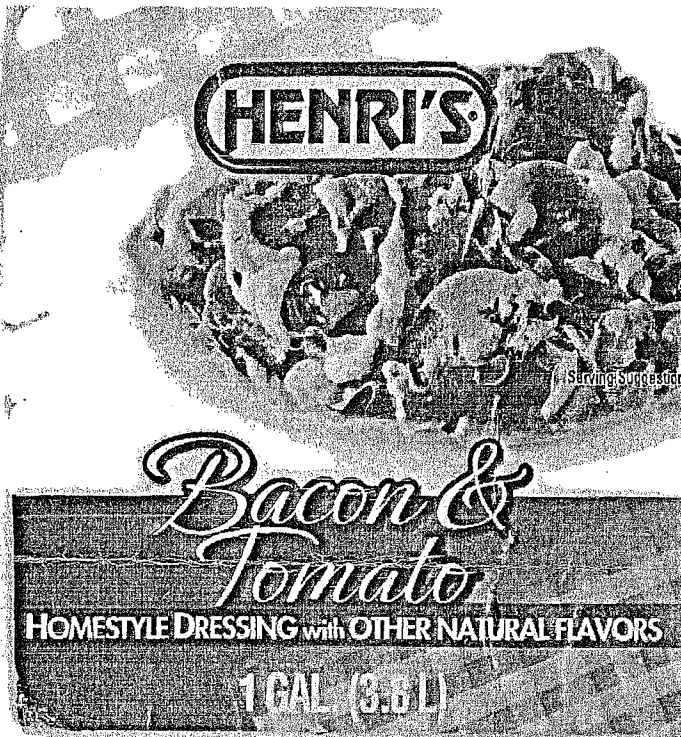
A handwritten signature in black ink, appearing to read "Debbie Stevens", is written over the word "Sincerely,".

Debbie Stevens
Supervisory Attorney

for:

Matthew W. Mellady
Regional Counsel

[EXHIBIT "6".]

**Nutrition Facts**

Serving Size 2 Tbsp (30mL)

Servings per Container 128

Amount Per Serving

Calories 130 Calories from Fat 90

% Daily Value*

Total Fat 10g 15%

Saturated Fat 1.5g 7%

Trans Fat 0g

Cholesterol 0mg 0%**Sodium 300mg** 12%**Total Carbohydrate 10g** 3%

Dietary Fiber <1g 1%

Sugars 9g

Protein <1g

Vitamin A 4% • Vitamin C 2%

Calcium 0% • Iron 2%

*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:

	Calories	2,000	2,500
Total Fat	Less than	65g	80g
Sat. Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

INGREDIENTS: SOYBEAN OIL, HIGH FRUCTOSE CORN SYRUP, WATER, SUGAR, CORN SYRUP, VINEGAR, TOMATO PASTE, SALT, IMITATION BACON BITS (SOY FLOUR, SOYBEAN OIL, SALT, CARAMEL COLOR, NATURAL FLAVOR, HYDROLYZED CORN, SOY, WHEAT PROTEIN, RED 3), SPICES, PAPRIKA (COLOR), XANTHAN GUM, PROPYLENE GLYCOL, ALGINATE, GARLIC POWDER, BACON FAT, BACON, NATURAL FLAVOR, CALCIUM DISODIUM EDTA (PRESERVATIVE), TAMARIND, RED 40, YELLOW 6, BLUE 1.

DISTRIBUTED BY
ACH FOOD COMPANIES, INC.
MEMPHIS, TN 38016 USA
HENRI'S is a registered trademark of
ACH Food Companies, Inc.



SHAKE WELL BEFORE USING.
REFRIGERATE AFTER OPENING.



U.S. Department of Justice

Federal Bureau of Prisons

Beckley Consolidated Legal Center

*1600 Industrial Park Road, P.O. Box 1280
Beaver, West Virginia 25813*

May 9, 2014

Marvin Damon
Reg. No. 40293-051
FCI McDowell
P.O. Box 1009
Welch, WV 24801

Re: FOI/PA Request No. 2014-06152

Dear Mr. Damon:

This is in response to your request for copies of Federal Bureau of Prisons' records. Specifically, you requested a copy of a printout showing the year, month, date, and time your Identification card was scanned at mainline during the month of October 2013.

We have located 2 pages responsive to your request. These records are being released in their entirety. We have not edited any portions of these documents.

Sincerely,

A handwritten signature in black ink, appearing to read "Debbie Stevens".

Debbie Stevens
Supervisory Attorney

for:

Matthew W. Mellady
Regional Counsel

FCI McDowell

Inmate Detail Report for 10/01/2013 thru 10/31/2013

Name: MARVIN DAMON

Number: 33793083

Meal Type	Date	Time	Doubleback
Dinner	10/11/2013	17:05	NO
Breakfast	10/1/2013	07:01	NO
Lunch	10/9/2013	11:00	NO
Breakfast	10/10/2013	06:33	NO
Lunch	10/10/2013	11:14	NO
Dinner	10/10/2013	17:09	NO
Dinner	10/8/2013	17:40	NO
Lunch	10/11/2013	10:58	NO
Lunch	10/8/2013	10:49	NO
Breakfast	10/12/2013	06:41	NO
Lunch	10/13/2013	11:20	NO
Lunch	10/14/2013	11:35	NO
Breakfast	10/15/2013	06:55	NO
Lunch	10/15/2013	11:01	NO
Dinner	10/15/2013	17:16	NO
Breakfast	10/11/2013	06:43	NO
Breakfast	10/4/2013	07:00	NO
Lunch	10/1/2013	12:50	NO
Breakfast	10/2/2013	07:25	NO
Lunch	10/2/2013	12:04	NO
Dinner	10/2/2013	18:00	NO
Breakfast	10/3/2013	07:31	NO
Breakfast	10/9/2013	06:40	NO
Dinner	10/3/2013	18:23	NO
Dinner	10/16/2013	17:28	NO
Lunch	10/4/2013	11:48	NO
Breakfast	10/5/2013	06:54	NO
Lunch	10/5/2013	12:09	NO
Dinner	10/5/2013	17:34	NO
Lunch	10/7/2013	10:51	NO
Breakfast	10/8/2013	06:29	NO
Lunch	10/3/2013	11:34	NO
Breakfast	10/28/2013	06:40	NO
Lunch	10/25/2013	11:05	NO

Report Date : 5/7/2014

[EXHIBIT "9".]

FCI McDowell

Inmate Detail Report for 10/01/2013 thru 10/31/2013

Name: MARVIN DAMON

Number: 33793083

Meal Type	Date	Time	Doubleback
Dinner	10/25/2013	17:07	NO
Breakfast	10/26/2013	06:38	NO
Lunch	10/26/2013	11:50	NO
Dinner	10/26/2013	17:14	NO
Breakfast	10/16/2013	06:40	NO
Dinner	10/27/2013	17:12	NO
Breakfast	10/24/2013	06:43	NO
Lunch	10/28/2013	11:21	NO
Breakfast	10/29/2013	06:36	NO
Lunch	10/29/2013	10:59	NO
Breakfast	10/30/2013	06:40	NO
Lunch	10/30/2013	11:13	NO
Lunch	10/31/2013	11:09	NO
Lunch	10/27/2013	11:16	NO
Breakfast	10/21/2013	06:39	NO
Dinner	10/31/2013	17:16	NO
Breakfast	10/17/2013	06:38	NO
Lunch	10/17/2013	11:03	NO
Breakfast	10/18/2013	06:36	NO
Lunch	10/19/2013	11:32	NO
Dinner	10/19/2013	17:11	NO
Breakfast	10/25/2013	06:34	NO
Lunch	10/20/2013	11:14	NO
Lunch	10/24/2013	11:04	NO
Breakfast	10/22/2013	06:39	NO
Lunch	10/22/2013	10:59	NO
Breakfast	10/23/2013	06:36	NO
Lunch	10/23/2013	11:05	NO
Dinner	10/23/2013	17:21	NO
Lunch	10/16/2013	11:15	NO
Breakfast	10/20/2013	06:37	NO

Report Date : 5/7/2014

U.S. Department of Justice

DAMON MARVIN
 DOB: 05-14-1965 Eye: BN Ht: 5'06"

INMATE

U.S. Postal Service™ *Damon Marvin*
CERTIFIED MAIL™ RECEIPT (USPS®)
 (Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$ 1.61
Certified Fee	3.30
Return Receipt Fee (Endorsement Required)	2.70
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 7.61

Postmark Here
 BRUCCTON MILLS VA
 JUL 23 2013
 26925

Sent To
FBI / Ms. Joyce Zoldak, (AGC)
 Street, Apt. No., or PO Box No. *320 First Street, N.W.*
 City, State, ZIP+4 *Washington, D.C. 20534*

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p>
<p>1. Article Addressed to:</p> <p><i>FEDERAL BUREAU OF PRISONS</i> <i>Ms. Joyce Zoldak,</i> <i>Associate General Counsel</i> <i>320 First Street, N.W.</i> <i>Room # 977 HOLC</i> <i>Washington, D.C. 20534</i></p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p>
<p>2. Article Number (Transfer from service label)</p> <p><i>7011 1570 0003 4354 1990</i></p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

PS Form 3811, July 2013

Domestic Return Receipt

[Attachment "B"]

TRULINCS 33793083 - DAMON, MARVIN - Unit: HAF-L-A

FROM: FCI R&D Open House
TO: 33793083
SUBJECT: RE:***Inmate to Staff Message***
DATE: 08/12/2014 06:37:02 AM

Your letter was delivered July 28, 2014 at 7:12 AM

>>> ~^!"DAMON, ~^!MARVIN" <33793083@inmatemessage.com> 7/31/2014 8:22 AM >>>

To: mail room

Inmate Work Assignment: L1 orderly

Re: CERTIFIED MAIL NO. 7011 1570 0003 4354 1990

Dear Sir or/madam:

on July 23, 2014, i some certified legal mail/returned receipt requested, Mailed to the following address:

TO: Federal Bureau of Prisons
Ms. Joyce Zoldak, Associate General Counsel
320 First Street, N.W., Room #977 HOLC
Washington, D.C. 20534

*However, on July 30,th, i received my green card back and the green card was not signed by any agent/addressee. therefore, i'm requesting that the mail room either contact the above address and/or go on-line at www.usps.com to see what day, and by whom my legal mail was delivered by.

(NOTE: HERE IS THE CERTIFIED MAIL NO: 7011 1570 0003 4354 1990

Thank you!

[Attachment "C"]

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USPS Tracking™

[Customer Service ›](#)
Have questions? We're here to help.

Tracking Number: 70111570000343541990

Expected Delivery Day: Friday, July 25, 2014

Product & Tracking Information

Postal Product:
First-Class Mail®Features:
Certified Mail™

Return Receipt

Available Actions

[Text Updates](#)[Email Updates](#)

DATE & TIME	STATUS OF ITEM	LOCATION
July 28, 2014 , 7:12 am	Delivered	WASHINGTON, DC 20534

Your item was delivered at 7:12 am on July 28, 2014 in WASHINGTON, DC 20534.

July 27, 2014 , 12:26 pm	Available for Pickup	WASHINGTON, DC 20534
July 27, 2014 , 10:27 am	Arrived at Hub	WASHINGTON, DC 20018
July 24, 2014 , 6:49 am	Departed USPS Facility	PITTSBURGH, PA 15290
July 23, 2014 , 10:29 pm	Arrived at USPS Facility	PITTSBURGH, PA 15290
July 23, 2014 , 4:17 pm	Departed Post Office	BRUCETON MILLS, WV 26525
July 23, 2014 , 12:23 pm	Acceptance	BRUCETON MILLS, WV 26525

Track Another Package

What's your tracking (or receipt) number?

[Track It](#)

LEGAL

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[Terms of Use ›](#)
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[Inspector General ›](#)
[Postal Explorer ›](#)
[National Postal Museum ›](#)



UNITED STATES GOVERNMENT
Federal Bureau of Prisons
Beckley Consolidated Legal Center
P.O. Box 1280
Beaver, WV 25813

August 26, 2014

Marvin Damon
Reg. No. 33793-083
FCI Hazelton
P.O. Box 5000
Bruceton Mills, WV 26525

Re: Administrative Claim Number TRT-MXR-2014-05873

Dear Mr. Damon:

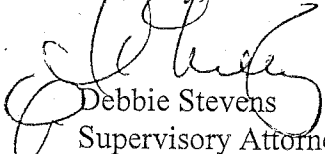
This will acknowledge receipt on July 31, 2014, of your administrative claim for personal injury at FCI McDowell beginning in October 2013. You claim a sum certain of \$1,500,000.00.

Under the provisions of the Federal Tort Claims Act, 28 U.S.C. § 2675, we have six months from the date of receipt of your claims in this office, to review, consider, and adjudicate your claims. This acceptance should not be construed as a waiver of any statute of limitation claims which the government may be entitled.

Should your claims include an allegation of loss of or damage to personal property, pursuant to 28 C.F.R., § 14.4(c), you are required to include with your claim an itemized list of the property lost or damaged. If possible, for each item, please state its value, date and place of purchase. If the property was purchased in a Federal institution, submit the commissary receipt. If the property was not purchased in a Federal institution, submit a copy of the receipt of purchase. If you do not have a receipt please state as such, and list the place purchased, for example: name of store, address, state, date and cost for each item alleged lost or damaged. Failure to respond within 30 days of this letter will delay the investigation of your claim. ***If you have already included the above information and receipts, please do not re-submit.***

All correspondence regarding this claim should be addressed to: Beckley Consolidated Legal Center, P.O. Box 1280, Beaver, WV 25813. When corresponding with this office regarding this tort claim please refer to the above tort claim number. If you have any questions about the status of your claim or if the circumstances surrounding this claim change in any fashion, contact this office immediately. **Also, should your address change, please advise accordingly.**

Sincerely,


Debbie Stevens
Supervisory Attorney

[Attachment "E"]



U.S. Department of Justice

Federal Bureau of Prisons

Beckley Consolidated Legal Center

*1600 Industrial Park Road, P.O. Box 1280
Beaver, West Virginia 25813*

September 5, 2014

Marvin Damon
Register No. 33793-083
FCI Hazelton
P.O. Box 5000
Bruceton Mills, WV 26525

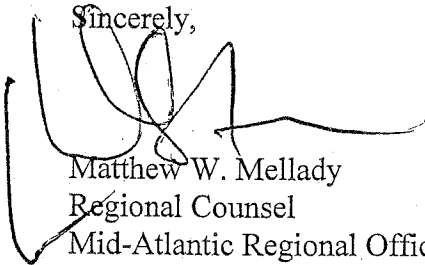
Re: Your Tort Claim No. TRT-MXR-2014-05873

Dear Mr. Damon:

Your claim has been considered for administrative settlement under the Federal Tort Claims Act, 28 U.S.C. § 2671, *et. seq.*, and authority granted under 28 C.F.R. § 0.172. You claim government liability in the amount of \$1,500,000.00 for an injury that occurred in October 2013 at FCI McDowell. Specifically, you allege that staff were negligent in their duties by failing to label the salad dressing causing you to eat a pork based product which is forbidden by your religious preference.

Investigation revealed that there is no policy requirement that the food served in the dining hall be labeled. Based on the above, your claim is denied. This is a final denial of your claim. If you are not satisfied with this determination, you have six months from the date of this letter to bring suit in an appropriate United States District Court, should you wish to do so.

Sincerely,

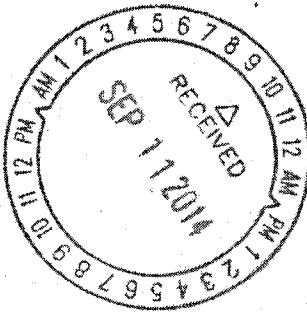


Matthew W. Mellady
Regional Counsel
Mid-Atlantic Regional Office

[Attachment "F"]

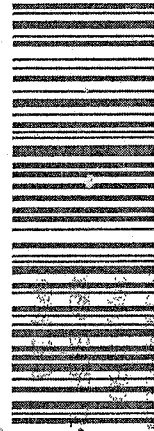
FCI Beckley Consolidated Legal Center
P.O. Box 1280
Beaver, West Virginia 25813

Official Business

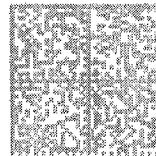


Marvin Damon
Register No. 33793-083
FCI Hazelton
P.O. Box 5000
Bruceton Mills, WV 26525

26525500100



CERTIFIED MAIL



UNITED STATES POSTAGE
02 1M
0004206606
MAILED FROM ZIP CODE 25813
\$03.78
U.S. OFFICIAL MAIL
FIRST CLASS PERMIT NO. 5300
PRIMEY BOWLES